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In re Application of	:	
Yasuda, et al.	:	DECISION ON
Application No.: 10/536,909	:	
PCT No.: PCT/JP03/14440	:	REQUEST UNDER
Int. Filing Date: 13 November 2003	:	
Priority Date: 28 November 2002	:	37 CFR 1.42
Attorney's Docket No.: 273074US0PCT	:	
For: PHOTOCURING RESIN COMPOSITION,	:	
MEDICAL DEVICE USING SAME AND METHOD	:	
MANUFACTURING SAME	:	

This is a decision on the papers filed 06 March 2006 which are being treated as a request under 37 CFR 1.42.

BACKGROUND

On 13 November 2003, applicants filed international application PCT/JP03/14440, which claimed priority of earlier Japanese applications, the earliest of which was filed 28 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 June 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2005.

On 27 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a translation of the international application and the requisite basic national fee as required by 35 U.S.C. 371(c)(1). These papers were assigned Application No. 10/536,909.

On 05 January 2006, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration. The notification set a two-month time period in which to respond.

On 27 May 2005, applicants filed the current response which included an executed declaration for inventors Yasuda and Besho, and Michiko Yokoyama, Naomi Shinoda and Risa Yokoyama as heirs and legal representative for inventor Yasuaki Yokoyama.

DISCUSSION

Applicant's declarations are being treated as a request under 37 CFR 1.42.

With respect to applicants' declarations in the current application, 37 CFR 1.42 states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497 states, in part:

- (a) When an applicant of an international application desires to enter the national stage under 35U.S.C. 371 pursuant to 1.494 or 1.495, he or she must file an oath or declaration that:
 - (1) Is executed in accordance with either 1.66 or 1.68;
 - (2) Identifies the specification to which it is directed;
 - (3) Identifies each inventor and the country of citizenship of each inventor; and
 - (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
- (b) (1) The oath or declaration must be made by all of the actual inventors except as provided for in 1.42, 1.43 or 1.47.
- (2) If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor, the facts required by 1.42, 1.43 or 1.47, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declarations filed 23 August 2005 appear to identify the citizenship, residence and mailing address of Michiko Yokoyama, Naomi Shinoda and Risa Yokoyama as heirs and legal representative, and the citizenship of the deceased inventor (Yasuaki Yokoyama). Further, the Application Data Sheet properly identifies the citizenship, residence and mailing address of the deceased inventor (Yasuaki Yokoyama). Accordingly, the declaration is acceptable under 37 CFR 1.497.

CONCLUSION

Applicants' request under 37 CFR 1.42 is GRANTED.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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